

STATE OF MICHIGAN  
COURT OF APPEALS

---

In the Matter of E. K. HOPKINS-WEBSTER,  
Minor.

UNPUBLISHED

August 13, 2013

No. 315194

Montcalm Circuit Court

Family Division

LC No. 2011-000493-NA

---

Before: WHITBECK, P.J., and OWENS and M.J. KELLY, JJ.

PER CURIAM.

Respondent appeals as of right the trial court order terminating her parental rights to the minor child under MCL 712A.19b(3)(c)(i), (c)(ii), (g), and (j). We affirm.

Respondent argues that the trial court clearly erred in finding that four statutory grounds for termination of her parental rights were established. To terminate parental rights, the trial court must find that at least one of the statutory grounds for termination set forth in MCL 712A.19b(3) has been proven by clear and convincing evidence and that termination is in the best interests of the children. MCL 712A.19b(5). A trial court's finding that a ground for termination has been established is reviewed for clear error. MCR 3.977(K); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

As an initial matter, respondent challenges the trial court's finding that she was in "categorical denial" about the fact that she was a victim of domestic abuse at her boyfriend's hands. However, at the time of adjudication, respondent admitted that there was a history of domestic violence in her relationship with her boyfriend and that her boyfriend had been convicted of domestic violence for his actions against her. Additionally, there was an incident during this case where respondent was discovered with a black eye. Respondent denied that her black eye was caused by domestic violence and offered several different explanations for her black eye, including that it was smeared makeup, a dog could have caused it, or her hitting a dresser could have caused it. Respondent provided these alternate explanations to differing parties. The trial court found that respondent's explanations for the black eye were "disingenuous" because she gave different explanations to different people.

Respondent asserts that there was no abusive conduct perpetrated on her by her boyfriend based on her testimony at the termination hearing that her boyfriend simply accepted the domestic violence conviction as a part of a plea and that there was no actual physical violence

against her. To the extent that the trial court's finding required it to reject the credibility of respondent's claim that there was no physical violence against her, "this Court accords deference to the special opportunity of the trial court to judge the credibility of the witnesses." *In re Fried*, 266 Mich App 535, 541; 702 NW2d 192 (2005). The trial court's finding that respondent was in "categorical denial" about the fact that she was a victim of abuse at her boyfriend's hands was not clearly erroneous. MCR 3.977(K).

Respondent also argues that the trial court erred in finding that she did not benefit from the services provided to her because she continued to live with her boyfriend. Respondent cites *In re Plump*, 294 Mich App 270, 273; 817 NW2d 119 (2011), for the proposition that "it is impermissible to terminate parental rights solely because the parent has been a victim of domestic violence."

In *Plump*, the mother was in a relationship with an abusive partner and was aware that this relationship was a barrier to reunification with her children. *Plump*, 294 Mich App at 273. The mother received numerous services, including counseling for victims of domestic violence. *Id.* Yet, the mother failed to benefit from services because, in part, she "persisted in her relationship with the abuser of her children." *Id.* We recognized that "[t]o be clear, it would be impermissible for a parent's parental rights to be terminated solely because he or she was a victim of domestic violence." *Id.* However, we found that the mother's termination in *Plump* was proper "based on the fact that respondent's own behaviors were directly harming the children or exposing them to harm." *Id.*

On appeal, respondent claims that the trial court found that she did not benefit from services based solely on the fact that she was a victim of domestic violence. However, similar to *Plump*, the trial court in this case based its finding that respondent had not benefitted from services on the fact that respondent continued to deny that she was a victim and persisted in living with her boyfriend. Respondent's persistence in a relationship with her abusive boyfriend, which exposed the minor child to the possibility of harm, was a proper basis for the trial court's finding that she had failed to sufficiently benefit from services. *Plump*, 294 Mich App at 273. Accordingly, the trial court's finding that respondent did not benefit from the services provided to her because she continued in her relationship with her boyfriend and denied that she was a victim of abuse was not clearly erroneous. MCR 3.977(K).

Turning to the trial court's statutory grounds for termination, regarding MCL 712A.19b(3)(c)(i), termination is proper if:

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

Here, the first dispositional order was entered on July 11, 2011. At the time of adjudication, the trial court found statutory grounds for jurisdiction under MCL 712A.2(b) because respondent failed to provide the minor child with support, education, medical, surgical, or other necessary care for her health and morals and because respondent's home was unfit by reason of neglect, cruelty, drunkenness, criminality, or depravity. The termination hearing was held on March 5, 2013, well over 182 days after the first dispositional order.

At the termination hearing, the trial court properly found that respondent's issue with domestic violence was not resolved because she refused to acknowledge at the termination hearing that she was a victim of domestic violence at her boyfriend's hands while testimony and evidence suggested otherwise. Also, there was no indication that respondent would change her mind in the future about her relationship with her boyfriend, despite the services provided to her. Accordingly, the trial court did not clearly err in finding a statutory ground for termination under MCL 712A.19b(3)(c)(i), specifically because of respondent's failure to rectify a home or environment which is unfit by reason of cruelty or criminality. MCR 3.977(K); *Trejo Minors*, 462 Mich at 356-357.

Because only one statutory ground for termination must be established, we decline to fully address the remaining statutory grounds for termination. *Trejo Minors*, 462 Mich at 360. However, we have reviewed the remaining grounds and find that the trial court did not clearly err in finding statutory grounds for termination under MCL 712A.19b(3)(c)(ii), (g), and (j).

Finally, respondent argues that petitioner did not provide her with reasonable efforts to reunify her with her child because petitioner did not take steps to accommodate her learning disability. The trial court's factual finding that reasonable efforts were made to reunify the family is reviewed under the clearly erroneous standard. MCR 3.977(K).

"[P]etitioner must make reasonable efforts to rectify conditions, to reunify families, and to avoid termination of parental rights," *In re LE*, 278 Mich App 1, 18; 747 NW2d 883 (2008), except where aggravated circumstances exist, MCL 712A.19a(2). Here, it appears that aggravated circumstances did not exist. The failure to make reasonable accommodations for a parent's disabilities bars a finding that reasonable efforts were made for reunification. *In re Terry*, 240 Mich App 14, 26; 610 NW2d 563 (2000).

In this case, petitioner provided respondent with extensive services, including a psychological assessment, individual counseling, a psychiatric evaluation, a neuropsychological evaluation, two parenting classes, parenting times, and RAVE counseling to address domestic violence. At the time respondent was provided with those services, it was known that she had a learning disability. However, respondent's psychologist informed the trial court that respondent's learning disability was not severe and that she could live independently and was an intelligent person. Also, respondent's psychological assessment indicated that "there are no intellectual functioning problems that would negatively impact her ability to parent effectively or follow through with DHS or court recommendations." Thus, at the time she was provided services, there was no indication that respondent needed an accommodation to compensate for her learning disability.

Subsequently, respondent participated in a neuropsychological examination in October 2012. The examiner's report recommended that respondent's case service plan be altered to allow her to complete a single action step at a time to accommodate her learning disability. Respondent argues that because petitioner did not alter her service plan to comply with that recommendation it failed to provide reasonable efforts for reunification in this case. However, petitioner "is not required to provide reunification services when termination of parental rights is the agency's goal." *In re HRC*, 286 Mich App 444, 463; 781 NW2d 105 (2009). The neuropsychological examiner's report was not admitted by the trial court until December 11, 2012. At the end of the December 11, 2012 hearing, the trial court ordered petitioner to file a petition to terminate respondent's parental rights and further ordered that no service plan be provided to respondent. At the termination hearing, a caseworker confirmed that petitioner did not follow the neuropsychological examiner's recommendation because the trial court ordered petitioner to pursue termination. Thus, petitioner's decision not to implement the recommendation did not deprive respondent of reasonable efforts to reunify her with her family because petitioner was not required to provide reunification services after December 11, 2012, when termination became the agency's goal. See *id.* Respondent fails to show clear error in the trial court's finding that reasonable efforts were made to reunify the family. MCR 3.977(K).<sup>1</sup>

Accordingly, the trial court did not err by terminating respondent's parental rights to the minor child.

Affirmed.

/s/ William C. Whitbeck  
/s/ Donald S. Owens  
/s/ Michael J. Kelly

---

<sup>1</sup> Respondent does not challenge the trial court's finding that termination was in the minor child's best interests.